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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

MAXIMILIAN KLEIN, et al.,

Plaintiffs,

v.

META PLATFORMS, INC.,

Defendant.

Case No. 3:20-cv-08570-JD

**STIPULATION AND [PROPOSED]
ORDER RE BUSINESS RECORDS
EXCEPTION TO THE HEARSAY RULE**

Hon. James Donato

1 To streamline the pretrial process and avoid time-consuming disputes at trial about the
2 admissibility of documentary evidence, Advertiser Plaintiffs, Consumer Plaintiffs, and Defendant
3 Meta Platforms, Inc. (“Party” or “Parties”), hereby stipulate and agree as follows:

4 1) Except as otherwise provided in paragraphs 2, 3, and 4 below, the Parties agree that
5 they will not object to the admissibility of any documents produced in this litigation by a Party or
6 Non-Party to this action on the basis that those documents do not qualify as business records within
7 the meaning of Rule 803(6) of the Federal Rules of Evidence unless the Party opposing admission
8 of such a document into evidence shows that it does not satisfy the criteria of Rule 803(6).

9 2) Embedded hearsay, or hearsay within hearsay, contained in a document that
10 qualifies as a business record pursuant to this Stipulation must separately satisfy an exception to
11 the hearsay rule in order to be admissible into evidence, as provided in Rule 805 of the Federal
12 Rules of Evidence.

13 3) If a Party has a good-faith belief based upon evidence that a document listed on
14 another Party’s exhibit list does not satisfy the criteria of Rule 803(6), the Party shall advise the
15 other side of that challenge after receipt of the other side’s proposed exhibit list for trial. The
16 Parties will negotiate in good faith to resolve such an objection. In the event that a good-faith
17 dispute arises regarding whether a document qualifies as a business record, the Parties agree to
18 meet and confer in good faith promptly about such document(s), and, if necessary, to expedite any
19 related motions for resolution by the Court. In the event that a good-faith dispute arises, the Parties
20 agree that they will not object to reasonable, good-faith efforts to establish whether a contested
21 document qualifies as a business record on the basis of timeliness.

22 4) Nothing in this Stipulation establishes the ultimate admissibility of any document
23 apart from the Rule 803(6) hearsay rule exception, nor shall it be taken to mean that any Party
24 accepts any characterization of a document other than that to which the parties have specifically
25 agreed in this Stipulation. The Parties hereby expressly reserve the right to object to the
26 admissibility of any document under any grounds permitted by law and not expressly addressed
27 herein.
28

Dated: April 25, 2023

Respectfully submitted,

By: /s/ Shana E. Scarlett

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FILER ATTESTATION

I am the ECF user who is filing this document. Pursuant to Civil L.R. 5-1(h)(3), I hereby attest that each of the other signatories have concurred in the filing of the document.

Dated: April 25, 2023

By: /s/ Brian J. Dunne
Brian J. Dunne

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: _____

JAMES DONATO
United States District Judge